

REMARKS

Claims 1 - 5 are pending. Claim 6 - 10 have previously been withdrawn in a Response dated October 25, 2007, in response to a Restriction Requirement that is re-mentioned in the Disposition of Claims portion of the outstanding Office Action Summary. Claim 1 has been amended to specify that Applicant's invention comprises, among other features, a clinical analyzer having a single reaction carousel. Support for this amendment may be found in paragraph [0016] and Figure 1. No new matter has been added.

Claim Rejections – 35 USC §102

The rejection of claims 1, 2, and 5 under 35 USC 102(e) as being anticipated by Devlin and Thompson (US 7,101,715) has been maintained.

In making this rejection, the Examiner has suggested that Devlin's disclosure of a pair of analyzers linked together by a shuttle form an integral system that may be considered a single device, like seen in Fig. 5. In response, claim 1 has been amended to recite a single clinical analyzer having a single reaction carousel.

Thus, it can no longer be said that Devlin anticipates claim 1 because Devlin does not teach duplicating reagents required to conduct certain assays within the reagent servers of a single analyzer having a single reaction carousel. As support, note that Devlin's analyzer system is described in the Abstract as a "dual analyzer system comprising at least two analyzers" and has two separate and distinct reaction carousels 12 seen in Fig. 5.

Applicant therefore submits that the outstanding rejection under 35 USC 102(e) as being anticipated by Devlin is no longer justified and respectfully requests that the rejection of claims 1, 2, and 5 be withdrawn.

Claims 1, 2, and 5 have been rejected under 35 USC 102(e) as being anticipated by Young et al (US 7,270,784). The Examiner finds two reagent storage carousels 130 and 135

within Vuong and suggests that Vuong teaches the use of duplicate reagents for assays to increase throughput.

Applicant traverses this rejection on the basis that Vuong simply teaches that plate carousel 130 comprises a library of compound microplates and that plate carousel 135 comprises a different library of assay microplates (Col. 12, lines 44 - 47). In other words, Vuong does not duplicate reagents (microplates) within at least two servers, as is claimed by Applicant, but inventories different types of reagents (microplates) in different "servers."

Furthermore, Vuong teaches that throughput may be increased by using different types of dispensing modules, one type (155) for small volumes (Col. 13, lines 15 - 19) and another type (145, 150) for sequential additions of different materials (Col. 13, lines 26 - 30). In other words, Vuong's throughput may be increased by adding different types of reagent dispensers and not by duplicating the same reagents within at least two servers as is claimed by Applicant.

For at least the reasons set forth above, Applicant submits that the outstanding rejection under 35 USC 102(e) as being anticipated by Vuong is not proper and respectfully requests that the rejection of claims 1, 2, and 5 be withdrawn.

Claim Rejections –35 USC §103

Claims 3 and 4 are rejected under 35 USC 103(a) as being obvious over Devlin. The Examiner states that it is inherent in Devlin that "the first or second group of assays would be completed in less than half or more than half of the operational cycle time" (depending on the reactions and reagents) in the Office Action dated June 25, 2008.

Devlin discloses a method for operating an analytical analyzer system comprising a pair of analyzers 10 and 11 where the full menu of assays that the dual-analyzer system can perform is divided into three subgroups **A**, **B**, and **C** of assays. In Devlin's case, type **A** assays are those requested **most often** (75 - 90% of all the assays requested as explained at Col. 9, lines 13 - 17) and types **B** and **C** assays are those requested **least often** (25 - 10% of all the

assays requested as explained at Col. 9, lines 29 - 31). Devlin thus differentiates assays based on the **frequency that they are requested** to be performed as best described in claim 1 of Devlin:

"...partitioning the assays to be performed into first, second and third groups wherein the first group comprises most frequently requested assays, the second group comprises one set of less-frequently requested assays and third group comprises a second set of less-frequently requested assays..."

Nowhere to Applicant's knowledge is there a reason to even suspect that the frequency that an assay is requested is related to the amount of time required to conduct the assay. In reality, the amount of time required for an assay to be completed is generally related to the complexity of the assay (number of reagents required to be added and mixed, incubation times, and the like). In contrast, **the frequency that an assay is requested is generally related to the likelihood that a patient suffers from a particular abnormality, and not to the length of time for the assay to be conducted**. There is simply no relationship between these characteristics.

In the instant application, claims 3 and 4 segregate assays depending on the length of completion time required for their completion in contrast to Devlin's segregation of assays depending on the frequency at which they are conducted. Devlin's requested-frequency-dependent assay scheme simply cannot make the Applicant's claimed time-completion-dependent assay scheme obvious. Applicant therefore submits that the outstanding rejection of claims 3 and 4 under 35 USC 103(a) as being obvious over Devlin cannot be substantiated and respectfully requests that the rejection be withdrawn.

Conclusion

Applicant believes that this application contains patentable subject matter and that the foregoing explanation provides a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicant's representative at the number provided below.

Respectfully submitted,

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